reformed at the suit of a sub-vendee who has notice of the fact that the purchase price has not been paid, and who does not tender payment of same. *Hagman v. Shaffner,* 88 Mo., 25. Where a mistake is made in describing land in a deed, but subsequent grantors describe it correctly, the last vendee is not entitled to use the original grantor for reformation, since there is no privity between the parties as to the mistake. *Jackson v. Lucas,* 157 Ala., 51. The statute of limitations does not begin to run against a *bona fide* purchaser without notice until the mistake is discovered and brought to his knowledge. *Hart v. Walton,* 9 Cal. App., 502.

TRADE-MARKS AND NAMES—UNFAIR COMPETITION—TEST.—A. Y. MCDONALD & MORRISON MFG. CO. v. H. MULLER MFG. CO., 183 FED, 972.—*Held,* that the test of unfair competition by the imitation of labels or marks, is not whether a difference can be recognized when the goods are placed side by side, but whether, when they are not side by side, an ordinary prudent person would be liable to purchase the one, believing that he was purchasing the other.

The general rule is in accord with the principal case, in that it does not constitute a practical and valid test that dissimilarities appear only when the articles are placed side by side. *Lawrence Mfg. Co. v. Lowell Hosiery Mills,* 126 Mass., 325; *Monol Tobacco Works v. Gensior,* 32 N. Y. Misc., 87; *Potter v. McPherson,* 21 Hun. (N. Y.), 559. And the weight of authority is to the effect that the similarity must be such that would deceive the ordinary prudent purchaser exercising ordinary care. *Van Camp Packing Co. v. Cruikshanks Bros.,* 90 Fed., 814; *Gannet v. Ruppert,* 119 Fed., 814. A considerable number of cases have gone farther, however, and held that it is an infringment when the similarity be such as is calculated to mislead even ignorant and unwary purchasers that are not cautious. *Brooklyn White Lead Co. v. Masury,* 25 Barb. (N. Y.), 416; *Colman v. Crump,* 70 N. Y., 573. In the case of *Mossler v. Jacobs,* 66 Ill. App., 571, an injunction was sustained preventing the use of the words "Six Big Tailors" as being so simlar to the name of "Six Little Tailors" as to deceive the unwary purchaser. Dissimilarities such as only an expert would detect are infringments. *R. Heinisch's Sons Co. v. Baker,* 86 Fed., 765. But letters or figures applied to merchandise by a manufacturer, for discriptive purposes alone, can not be appropriated by him for his exclusive use as a trade-mark. *Amoskeag Mfg. Co. v. Trainer,* 101 U. S., 51. Furthermore, regard must be taken as to the class of persons who purchase the particular article and the fact that goods are of a class purchased by persons who are easily deceived is a circumstance to be considered. *W. K. Fairbanks Co. v. R. W. Bell Mfg. Co.,* 77 Fed. Rep., 869; *Rickitt v. Kellogg,* 28 N. Y. App. Div., 111.

TRIAL—DEMURRER TO EVIDENCE—CONFLICTING EVIDENCE.—WINGFIELD V. MCCLINTOCK, 113 PAC., 394. (KAN.).—*Held,* that on the trial of a case, where there is conflicting evidence on the one hand tending to establish a material fact, and, on the other to disprove it, it is error for the court to sustain a demurrer to evidence, however strongly in the opinion of the